

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

YOEL WEISSHAUS,

Plaintiff,

-against-

Honorable ANDREW CUOMO, in his official and
individual capacity,

Defendant.

DECLARATION

Civil No. 20-cv-05826

Nora K. Yates, on the date noted below and pursuant to § 1746 of title 28 of the United States Code, declares the following to be true and correct under penalty of perjury under the laws of the United States of America:

1) I am the Director of the Center for Community Health, in the Office of Public Health, New York State Department of Health (“Department”). I have been the Director of the Center for Community Health since 2016.

2) My responsibilities as they relate to COVID-19 include coordinating the contact tracing initiative, drive-through testing sites, and cluster response teams.

3) I am familiar with the facts set forth herein based upon personal knowledge, discussions with Department staff, and Department records.

4) I make this declaration in opposition to Plaintiff’s Motion for a Preliminary Injunction.

Travel Advisory History

5) On June 24, 2020, the Governor issued Executive Order 205, “Quarantine Restrictions on Travelers Arriving in New York.” See Exh. A. The Executive Order required all travelers entering New York from a state with a positive test rate higher than 10 per 100,000 residents, or higher than a 10% test positivity rate, over a seven-day rolling average, to quarantine for a period of fourteen days consistent with Department regulations for quarantine. Id.

6) Executive Order 205 gives discretion to the Commissioner of the Department to issue additional protocols for essential workers, or for other extraordinary circumstances, when a quarantine is not possible, provided such measures continue to safeguard the public health. Id.

7) That same day, the Office of the Commissioner for the Department issued the “Interim Guidance for Quarantine Restrictions on Travelers Arriving in New York State Following Out of State Travel.” See Exh. B.

8) As part of the enforcement of the quarantine restrictions, on July 13, 2020, Commissioner Zucker issued an Order for Summary Action related to the COVID-19 New York State Traveler Health Form. See Exh. C.

9) All individuals traveling to New York are requested to complete the form upon entering New York. Teams stationed at airports statewide meet arriving aircraft and greet disembarking passengers to request proof of completion of DOH’s Traveler Health Form. See Exh. D. Travelers subject to the travel advisory who leave an airport without completing the form may be subject to a fine up to \$10,000 and may be brought to a hearing and ordered to complete mandatory quarantine. Id.

10) In order to adapt to the increasing positivity rates domestically and globally,

Governor Cuomo signed Executive Order 205.1 on September 28, 2020, and Executive Order 205.2 on October 31, 2020, both of which modified the travel advisory policy outlined in Executive Order 205. See Exhs. E and F, respectively. Executive Order 205.1 expanded the travel advisory to include travelers arriving from “any country with a CDC Level 2 or Level 3 health notice. See Exh. E. Executive Order 205.1 required that individuals arriving from CDC Level 2 and Level 3 countries complete the Traveler Health Form. Executive Order 205.2 modified the travel advisory to remove the restrictions based on state positivity rates, and instead applies to all travelers entering New York from a non-contiguous state, unless they fall under certain enumerated exceptions. See Exh. F.

11) On November 3, 2020, the Interim Guidance for Quarantine Restrictions on Travelers Arriving in New York State Following Out of State Travel was updated to correspond to the modifications made to Executive Order 205. See Exh. G. The guidance details the exceptions for first responders and essential workers, the contiguous states that are not subject to the guidance, and the new testing requirements that may allow travelers to exit quarantine early upon receipt of a second negative COVID-19 test result. Id. All New Yorkers, as well as those visiting from out of state and out of country, must comply with the advisory in the best interest of public health and safety. Id.

12) Additionally, the CDC advises all travelers that “some destinations require testing before travel and/or after travel” and to “always follow state and local recommendations or requirements related to travel.” See Exh. H. The CDC also advises that “state, local, and territorial governments may have travel restrictions in place” and travelers should “prepare to be flexible during [their] trip as restrictions and policies may change during [their] travel. Follow all state,

local, and territorial travel restrictions.” See Exh. I.

Traveler Health Form: Data and Process

13) As part of the travel advisory, travelers entering New York fill out the New York State Traveler Health Form. See Exh. J. This information is required in order to determine which travelers are subject to quarantine restrictions and to allow for proper contact tracing and compliance checks.

14) If the traveler is deemed to meet requirements for quarantine restrictions, Department staff enter the traveler’s information into the Department’s system for contact tracing, Commcare. Department staff then text or call these individuals each day of the quarantine period. This information remains confidential.

15) If the completed Traveler Health Form indicates that the traveler is exempt from the travel advisory for any reason, the Department does not utilize their information for any further purpose.

16) True and accurate copies of the following documents are attached hereto:

Exhibit A: Governor Cuomo’s Executive Order 205.

Exhibit B: Interim Guidance for Quarantine Restrictions on Travelers Arriving in New York State Following Out of State Travel, June 24, 2020.

Exhibit C: Commissioner’s Order for Summary Action related to the COVID-19 New York State Traveler Health Form.

Exhibits D: New York State COVID-19 Travel Advisory

Exhibit E: Governor Cuomo’s Executive Order 205.1

Exhibit F: Governor Cuomo’s Executive Order 205.2

Exhibit G: Interim Guidance for Quarantine Restrictions on Travelers Arriving in New York State Following Out of State Travel, November 3, 2020.

Exhibit H: CDC Testing and International Air Travel

Exhibit I: CDC Domestic Travel During the COVID-19 Pandemic

Exhibit J: New York State Traveler Health Form

Dated: January 7, 2021
Albany, New York

Nora Yates

NORA K. YATES